REMARKS

Favorable reconsideration of this application is respectfully requested.

Claims 28-41 and 43-54 are pending in this application. Claims 28-29, 31-32, 34, 38-39, 41, 44-46, 48-49, and 51 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent application publication 2003/0206509 to Lee et al (herein "Lee") in view of U.S. patent 7,215,634 to Van Woudenberg (herein "Van Woudenberg '634"). Claims 30, 33, 35-37, 40, 43, 47, 50, and 52-54 were rejected under 35 U.S.C. § 103(a) as unpatentable over Van Woudenberg '634 in view of Lee as applied to claim 1, and further in view of U.S. patent 6,724,707 to Van Woudenberg (herein "Van Woudenberg '707"). Those rejections are traversed by the present response as discussed next.

Initially, applicants note the outstanding Office Action has prematurely been made a final rejection as it contains a new grounds for rejection not necessitate by applicants' amendment.

Specifically, in the prior Amendment filed August 29, 2008, the independent claims were amended to incorporate features previously recited in dependent claims 32, 42, and 49, and those limitations as recited in dependent claims 32, 42 and 49 were rejected over Van Woudenberg '634 (see the Office Action of July 9, 2008, the middle of page 4). Now, those same limitations that were previously rejected over Van Woudenberg '634 are now rejected over Lee at paragraph [0031] as discussed in further detail below. Thereby, the outstanding rejection has changed the prior art relied upon for meeting the previously recited claim limitations, and thereby the outstanding rejection is a new grounds for rejection that was not necessitated by applicants' amendment. Thereby, the Finality of the previous Office Action must be withdrawn.

As discussed further below, applicants further respectfully submit the claims as currently written positively recite features neither taught nor suggested by the applied art.

Independent claim 28 is directed to an optical recording medium in which a write-once or rewrite operation of data can be performed, and specifically recites:

> wherein the fixed length buffer area disposed immediately before a respective of the blocks includes a preamble for signal processing, and plural synchronization patterns having distances and identification information that are different from each other are recorded at the preamble.

The other independent claims recite similar limitations as in independent claim 28.

Applicants respectfully submit the outstanding rejection does not appear to be fully understanding the above-noted feature or the cited art with respect to the feature. According to the above-noted feature, a *preamble before a block* includes *plural synchronization patterns* having different distances and identification information. What the outstanding Office Action does not appear to be fully considering is that the above-noted limitation is directed to a *single preamble*, and that *single preamble itself includes plural synchronization patterns*. As discussed in the present specification in the paragraph bridging pages 30 and 31, with such a claimed structure of utilizing plural synchronization patterns in a preamble, and the plural synchronization patterns have distances and identification information that are different from each other, even in a case in which one synchronization pattern cannot be detected by disturbance among the plural synchronization patterns, and even in the case in which the remaining synchronization patterns are detected and IDs of the synchronization pattern that can be detected cannot be normally read out, synchronization of a cluster can still be established.

The above-noted claim features of providing the noted plural synchronization patterns having distances and identification information that are different from each other in a preamble are believed neither taught nor suggested by the applied art.

With respect to the above-noted feature, as noted above the previous grounds for rejection cited <u>Van Woudenberg</u> '634, but now the rejection appears to cite <u>Lee</u> at paragraph

[0031], which again is a new grounds for a rejection that was not necessitated by applicants' amendment.

With respect to the above-noted feature, the outstanding Office Action states in <u>Lee</u>, "(Paragraph [0031]); 'predetermined pattern' can be identification information)".[1] In the "Response to Arguments" section, the outstanding Office Action also states:

> . . . Lee discloses sync pattern and identification information that is different from each other are recorded at the preamble (Paragraph [0031]: "predetermined pattern" can be a identification information).[2]

In reply to the above-noted grounds for the rejection, applicants' submit the outstanding rejection is misinterpreting the disclosure in <u>Lee</u> relative to the claimed feature. First, the cited disclosure in <u>Lee</u> is *not even directed to a preamble*, and secondly, <u>Lee</u> clearly does not disclose or suggest any of the even noted plural "predetermined patterns" being provided in the same preamble.

<u>Lee</u> states at cited paragraph [0031]:

> [0031] Each of the run-ins 13 can include a guard113a having a predetermined pattern for overcoming overwriting due to a change in a data recording start point and a pre-amble 13b for signal processing such as locking or synchronizing. Each of the *run-outs 18 can include a post-amble* 18a for signal processing and a guard218b having a *predetermined pattern* for overcoming overwriting due to a change in a data recording start point. Consequently, the guard113a and the guard218b act as buffers for protecting user data. [Emphasis added]

From the above-noted disclosure, it is first clear that the cited "predetermined pattern" in paragraph [0031] of <u>Lee</u> is not even directed to a preamble, but instead is directed to a run-out 18 that can include a *post-amble* 18a. In that respect, the outstanding rejection is misconstruing the cited disclosure in <u>Lee</u> relative to the claimed features as even the cited "predetermined pattern" is *not directed to a preamble*.

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[1]   Office action of December 22, 2008, bottom of page 2.
[2]   Office action of December 22, 2008, page 8, "Response to Arguments" section.

Moreover, even the disclosure in <u>Lee</u> directed to the "predetermined pattern" appears to indicate each post-amble itself only includes a *single* predetermined pattern.

One of the features set forth in the claims as currently written is that one preamble includes plural synchronization patterns having distances and identification information that are different from each other. <u>Lee</u> does not disclose or suggest that any single preamble, or for that matter even a single post-amble, includes plural of the cited "predetermined patterns". Instead, <u>Lee</u> merely appears to disclose each individual post-amble would include its own respective predetermined pattern, which is unrelated to the claimed features in which a single preamble includes plural synchronization patterns.

In such ways, the outstanding rejection misconstrue the disclosures in the applied art relative to the claimed features, and applicants respectfully submit none of the applied art fully meets the above-noted claimed features of:

> wherein the fixed length buffer area disposed immediately before a
> respective of the blocks includes a preamble for signal processing, and
> plural synchronization patterns having distances and identification
> information that are different from each other are recorded at the
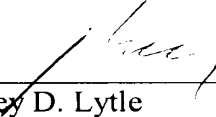> preamble[,]

as specifically recited in independent claim 28, and as similarly recited in the other independent claims.

Thereby applicants respectfully submit each of the claims as currently written positively recites features neither taught nor suggested by the applied art.

As no other issues are pending in this application, it is respectfully submitted that the

present application is now in condition for allowance, and it is hereby respectfully requested

that this case be passed to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Surinder Sachar
Registration No. 34,423

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/07)

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